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Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

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Federal Communications Commission  
Office of Secretary

In the Matter of	)	
	)	
Federal-State Joint Board on Universal Service	)	CC Docket No. 96-45
	)	
TRACFONE WIRELESS, INC.	)	
	)	
Petition for Designation as an	)	
Eligible Telecommunications Carrier	)	
in the Commonwealth of Massachusetts	)	
_____	)	

**PETITION FOR DESIGNATION AS AN  
ELIGIBLE TELECOMMUNICATIONS CARRIER  
IN THE COMMONWEALTH OF MASSACHUSETTS**

Mitchell F. Brecher  
Debra McGuire Mercer

GREENBERG TRAURIG, LLP  
800 Connecticut Avenue, N.W.  
Suite 500  
Washington, D.C. 20006  
(202) 331-3100

*Counsel for TracFone Wireless, Inc.*

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## TABLE OF CONTENTS

SUMMARY.....	iv
I. TracFone's Universal Service Offering.....	2
A. TracFone's Service .....	2
B. TracFone's Proposed Lifeline Service .....	3
II. TracFone Meets the Requirements For Designation as an Eligible Telecommunications Carrier to Serve the Designated Areas in the Commonwealth of Massachusetts. ....	4
A. The Commonwealth of Massachusetts Department of Telecommunications and Energy Does Not Regulate CMRS Service.....	5
B. TracFone Will Provide Service Through Resale .....	5
C. TracFone Offers All Required Services and Functionalities.....	6
1. Voice grade access to the public switched telephone network.....	6
2. Local Usage. ....	6
3. Dual tone multi-frequency ("DTMF") signaling or its functional equivalent.....	7
4. Single-party service or its functional equivalent. ....	7
5. Access to 911 and E911 emergency service.....	7
6. Access to operator services.....	8
7. Access to interexchange service ("IXC").....	8
8. Access to directory assistance. ....	8
9. Toll limitation for qualified low-income customers.....	8
D. TracFone Will Advertise the Availability of its Lifeline Services.....	9
E. TracFone Requests Designation Throughout Its Licensed Service Area in Massachusetts .....	9
1. Non-Rural Areas.....	10
2. Rural Areas .....	10
III. Designation of TracFone as an ETC for the Designated Areas In the Commonwealth of Massachusetts Would Serve the Public Interest .....	10
1. The Benefits of Competitive Choice .....	12
2. Impact on the Universal Service Fund .....	13
3. Unique Advantages of TracFone's Service Offerings.....	13
4. Service Quality Commitments Made .....	14
5. TracFone Will be Able to Serve the Designated Areas Within a Reasonable Time .....	14
IV. Anti-Drug Abuse Certification .....	15
V. High-Cost, Interstate Access, and Interstate Common Line Support Certification.....	15
VI. Conclusion.....	17

## **EXHIBITS**

1. Declaration of TracFone President
2. Order from Massachusetts Department of Telecommunications and Energy Declining Jurisdiction
3. High-Cost Interstate Access and Interstate Common Line Support Certification Letter

## SUMMARY

TracFone Wireless, Inc. (“TracFone”) is seeking designation as an Eligible Telecommunications Carrier (“ETC”) pursuant to Section 214(e)(6) of the Communications Act of 1934, as amended (the “Act”) throughout the entire Commonwealth of Massachusetts, including both non-rural telephone company service areas and rural telephone company service areas.

TracFone is a reseller of Commercial Mobile Radio Service (“CMRS”) throughout Massachusetts. Through its resale agreements with six underlying carriers, TracFone has the ability to provide all services and functionalities supported by the universal service program, as detailed in Section 54.101(a) of the Commission’s Rules.

TracFone provides its services only on a prepaid basis. TracFone’s customers tend to be those customers which other wireless carriers do not want to serve – lower income, lower volume users, students, the elderly, and transient consumers; customers who either are unwilling to enter into long-term service contracts with steep early termination penalties or, if they are willing to sign such contracts, do not have credit standings that would be satisfactory to those other carriers. TracFone’s commitment to offering prepaid plans which make wireless service available to low income, low volume users has been a critical component of TracFone’s business strategy since the company’s inception. Now TracFone has determined to offer service specifically targeted at that portion of the consuming public most in need of affordable telecommunications services: those who qualify for assistance under the Commission’s Lifeline program. TracFone seeks ETC designation solely to enable it to offer Lifeline service to eligible low income consumers. TracFone does not seek access to funds from the federal Universal Service Fund for the purpose of providing service to high cost areas.

Under Section 214(e)(6) of the Act, the Commission may with respect to an area served by a rural telephone company, and shall, in all other cases, designate more than one common carrier as an ETC for a designated service area, so long as the carrier meets the requirements of Section 214(e)(6). TracFone meets the requirements for ETC designation pursuant to Section 214(e)(6). TracFone recognizes that Section 214(e)(1)(A) states that ETCs shall offer services, at least in part, over their own facilities. Due to the fact that TracFone provides service by reselling the services of its underlying vendors, it has requested that the Commission exercise its forbearance authority with respect to the facilities-based requirement. TracFone meets all the conditions to grant a petition for forbearance. As detailed in the Petition for Forbearance, enforcement of the requirement that an ETC provide service using at least a portion of its own facilities is not necessary to ensure that TracFone's charges and practices are just and reasonable and are not unjustly or unreasonably discriminatory; is not necessary to protect consumers; and is consistent with the public interest.

Finally, designation of TracFone as an ETC in rural telephone company service areas is supported by public interest. The benefits of designating TracFone as an additional ETC in the rural areas of Massachusetts outweigh potential harms. If TracFone is designated as an ETC, consumers will benefit from increased competitive choice, the impact of the designation on the universal service fund will be negligible, consumers for whom telephone service is unavailable or impracticable will enjoy pay-as-you-go, affordable and high quality wireless telecommunications service, and such service will be available immediately upon grant of the ETC application.

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**PETITION FOR DESIGNATION AS AN  
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IN THE COMMONWEALTH OF MASSACHUSETTS**

TracFone Wireless, Inc. ("TracFone"), by its undersigned counsel and pursuant to Section 214(e)(6) of the Communications Act of 1934, as amended (the "Communications Act"), hereby submits this Petition for Designation as an eligible telecommunications carrier ("ETC") in the Commonwealth of Massachusetts. If designated as an ETC, TracFone will solely use that designation and the accompanying federal universal service funds to offer Lifeline service to customers who are qualified to participate in the Lifeline program. TracFone does not seek access to funds from the universal service fund to support service to high cost areas.

TracFone provides wireless telecommunications services throughout the Commonwealth of Massachusetts. As demonstrated herein, and certified in Exhibit 1 to this Petition, TracFone meets all of the statutory and regulatory requirements for designation as an ETC in the Commonwealth of Massachusetts. TracFone respectfully requests that the Commission promptly grant this Petition.

## **I. TracFone's Universal Service Offering**

### **A. TracFone's Service**

TracFone is a reseller of Commercial Mobile Radio Services ("CMRS") throughout the United States, including the Commonwealth of Massachusetts. TracFone provides service through a "virtual network" consisting of services obtained from more than thirty licensed operators of wireless networks. TracFone has provided CMRS service throughout the Commonwealth of Massachusetts continuously for seven years. In Massachusetts, TracFone obtains service from the following underlying carriers: *Cingular Wireless* and *Verizon Wireless*. TracFone's arrangements with these providers enable it to offer services wherever any of those providers offer service in the Commonwealth of Massachusetts.

TracFone, through its resale agreements with the underlying carriers identified in the preceding paragraph, has the ability to provide all services and functionalities supported by the universal service program, as detailed in Section 54.101(a) of the Commission's Rules (47 C.F.R. § 54.101(a)) throughout the Commonwealth of Massachusetts. Upon designation as an ETC, TracFone will make available to consumers, who are qualified to participate and are within the designated area, the Lifeline service with all of the *functionalities and features currently* provided by TracFone to its existing customers.

Even without classification as an ETC, TracFone currently operates in accordance with the spirit of universal service. Because TracFone utilizes the networks of more than thirty licensed CMRS providers, TracFone service is available virtually nationwide (including throughout the Commonwealth of Massachusetts). Moreover, TracFone service is available at nationally uniform rates. TracFone service is priced no higher in Boston, Massachusetts than it is in Aquinnah, Massachusetts.

## **B. TracFone's Proposed Lifeline Service**

TracFone is a CMRS provider which provides its services only on a prepaid basis. TracFone considers lower volume, lower income consumers to be the heart of its consumer base, rather than a portion of the consuming public to be avoided. Traditional wireless carriers shun service to such customers. TracFone's commitment to offering prepaid plans which make wireless service available to low income users is not new. It has been a critical component of TracFone's business strategy since the company's inception. TracFone has recently decided to offer services specifically targeted at that portion of the consuming public most in need of affordable telecommunications services: those who qualify for assistance under the Commission's Lifeline program.

TracFone is developing a Lifeline service plan that will be consistent with the goals of universal service and offer significant benefits to consumers who qualify for Lifeline. In previously filed petitions for ETC designation in other states, TracFone proposed a specific Lifeline service plan. However, after reviewing comments filed in response to those previously-filed petitions, discussing its proposal with Commission Staff, and further analyzing the specific details of that plan, TracFone is considering various alternatives. Under all plans being contemplated, TracFone will pass through 100 percent of universal service fund support it receives to consumers. For example, if TracFone receives \$10 in USF support for serving a customer who qualifies for Lifeline service, a plan that currently costs the equivalent of \$15 a month, would now cost not more than \$5 a month. TracFone plans to develop special discounted Lifeline offerings in addition to discounting existing plans by the Lifeline subsidy amount. TracFone will actively promote and advertise all Lifeline service options. Lastly, TracFone will implement procedures to ensure that all consumers receiving Lifeline services from it are qualified to receive such services and continue to be qualified throughout the time they receive



Lifeline service. TracFone's eligibility determination and confirmation procedures will be comply with applicable Commission rules and will be consistent with the procedures used by existing ETCs.

**II. TracFone Meets the Requirements For Designation as an Eligible Telecommunications Carrier to Serve the Designated Areas in the Commonwealth of Massachusetts.**

Under Section 214(e)(6) of the Act (47 U.S.C. § 214(e)(6)), the Commission, consistent with the public interest, convenience and necessity, may, with respect to an area served by a rural telephone company, and shall, in all other cases, designate more than one common carrier as an ETC for a designated service area, so long as the requesting carrier meets the requirements of Section 214(e)(6). As demonstrated below, and as set forth in the Declaration of F.J. Pollak, Exhibit 1, TracFone meets the requirements for ETC designation by the Commission pursuant to Section 214(e)(6) set forth in the Commission's Section 214(e)(6) Public Notice, as demonstrated in this Petition.<sup>1</sup> In addition, TracFone complies with the standards established by the Commission for determining whether applications for ETC status to serve areas served by rural local exchange carriers would serve the public interest.<sup>2</sup> TracFone recognizes that Section 214(e)(1)(A) states that ETCs shall offer services, at least in part, over their own facilities. However, as described at Section II. B. of this petition, TracFone has requested that the Commission exercise its forbearance authority with respect to that facilities-based service requirement. For the reasons set forth in its petition for forbearance, TracFone meets all of the

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<sup>1</sup> See Procedures for FCC Designation of Eligible Telecommunications Carriers Pursuant to Section 214(e)(6) of the Communications Act, *Public Notice*, 12 FCC Rcd 22947 (1997) ("Section 214(e)(6) Public Notice").

<sup>2</sup> See Highland Cellular, Inc. Petition for Designation as an Eligible Telecommunications Carrier in the Commonwealth of Virginia, 19 FCC Rcd 6422 (2004) ("Highland Cellular"); Virginia Cellular, LLC Petition for Designation as an Eligible Telecommunications Carrier in the Commonwealth of Virginia, 17 FCC Rcd 9596 (2004).

conditions to grant of a petition for forbearance codified at Section 10 of the Act (47 U.S.C. § 160).

**A. The Commonwealth of Massachusetts Department of Telecommunications and Energy Does Not Regulate CMRS Service**

A carrier seeking designation as an ETC must typically request such a designation from the applicable state regulatory commission. However, the Massachusetts Department of Telecommunications and Energy, formerly known as the Department of Public Utilities, (the "DTE") does not regulate CMRS carriers such as TracFone for the purpose of making ETC determinations. An Order to this effect, dated August 5, 1994, was issued by the DTE, and is attached to this Petition as Exhibit 2.<sup>3</sup> This Order meets the FCC's specific requirements for such orders, in that it specifies that CMRS carriers are not subject to regulation by the DTE. Therefore, since TracFone is not subject to any regulation by the DTE, it is not subject to the jurisdiction of the DTE for the purpose of making ETC designations. TracFone accordingly requests that the FCC designate TracFone as "a common carrier providing telephone exchange service and exchange access that is not subject to the jurisdiction of a state commission" pursuant to 47 U.S.C. § 214(e)(6).

**B. TracFone Will Provide Service Through Resale**

Section 214(e)(1)(A) states that a carrier designated as an ETC shall offer services supported by Federal universal service support programs "either using its own facilities or a combination of its own facilities and resale of another carrier's services." TracFone is a reseller of the following carriers' services in Massachusetts: Cingular Wireless and Verizon Wireless.

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<sup>3</sup> See Investigation by the Department of Public Utilities upon its own motion on Regulation of Commercial Mobile Radio Services, Docket No. D.P.U. 94-73 (August 5, 1994) ("the Department will not regulate [rates or] other terms and conditions of radio common carrier service after August 10, 1994.").

Concurrent with the filing of this Petition, TracFone has filed with the Commission a Petition for Forbearance requesting that the Commission forbear from applying Section 214(e)(1)(A) to TracFone. As detailed in the Petition for Forbearance filed on June 8, 2004, in the case of TracFone, enforcement of the requirement that an ETC provide services using at least some of its own facilities is not necessary to ensure that TracFone's charges and practices are just and reasonable and are not unjustly or unreasonably discriminatory; is not necessary to protect consumers; and is consistent with the public interest.<sup>4</sup>

**C. TracFone Offers All Required Services and Functionalities**

TracFone offers, or will offer upon designation as an ETC in the Designated Areas, all of the services and functionalities required by Section 54.101(a) of the Commission's Rules (47 C.F.R. § 54.101(a)) including the following:

**1. Voice grade access to the public switched telephone network.**

Voice grade access to the public switched telephone network ("PSTN") means the ability to make and receive traditional voice phone calls between the approximately 500 Hertz and 4,000 Hertz for a bandwidth of approximately 3500 Hertz.<sup>5</sup> The voice grade access provided by TracFone enables a user of telecommunications services to transmit voice communications, including signaling the network that the caller wishes to place a call, and to receive voice communications, including receiving a signal indicating there is an incoming call.

**2. Local Usage.**

As part of the voice grade access to the PSTN, an ETC must provide local calling. TracFone provides subscribers the ability to send and receive local phone calls wherever it

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<sup>4</sup> See 47 U.S.C. § 160.

<sup>5</sup> See Federal-State Joint Board on Universal Service, First Report and Order, 12 FCC Rcd 8776 at 8810-11 (1997) ("USF Order").

provides service. Moreover, local usage is included in all of TracFone's calling plans. As a designated ETC, TracFone will comply with any applicable minimum local usage requirements adopted by the Commission.

**3. Dual tone multi-frequency ("DTMF") signaling or its functional equivalent.**

DTMF signaling allows carriers to provide expeditious call set-up and call detail information and enables modem usage.<sup>6</sup> The Commission permits carriers to provide signaling that is functionally equivalent to DTMF to satisfy the DTMF requirement. All telephone handsets sold by TracFone are DTMF-capable.

**4. Single-party service or its functional equivalent.**

Single-party service means that only one party will be served by a subscriber line or access loop in contrast to a multi-party line.<sup>7</sup> TracFone provides customers with single-party access for the duration of every phone call. TracFone does not provide "multi-party" or "party line" services.

**5. Access to 911 and E911 emergency service.**

The Commission has declared that access to emergency services is essential.<sup>8</sup> TracFone provides universal access to the 911 system for its customers. In fact, TracFone handsets will permit E-911 calling irrespective of whether the caller is an active customer and whether the customer has available prepaid minutes. TracFone has implemented and will continue to implement enhanced 911 ("E911") services consistent with the Commission's Rules and Orders when such services are made available by the carriers from whom TracFone purchases services. In particular, TracFone will fully comply with the Commission's E911 requirements applicable

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<sup>6</sup> USF Order at 8814.

<sup>7</sup> USF Order at 8810.

<sup>8</sup> Id. at 8815.

to wireless resellers.<sup>9</sup> Pursuant to the Commission's E911 Order, resellers that use other carriers' facilities to provide wireless voice service to customers have an obligation to comply with the Commission's E911 rules "to the extent that the underlying facilities-based licensee has deployed the facilities necessary to deliver enhanced 911 information to the appropriate PSAP [public service answering point]."<sup>10</sup> TracFone will make available access to E-911 service in accordance with applicable Commission requirements.

**6. Access to operator services.** TracFone offers all of its customers access to operator services, in accordance with the Commission's requirements.

**7. Access to interexchange service ("IXC").**

TracFone customers can use TracFone's services to complete toll calls. In fact, TracFone does not impose separate charges for interexchange calls. Long distance calling is included in TracFone's service with no additional charge.

**8. Access to directory assistance.**

All TracFone customers receive access to directory assistance service through the TracFone virtual network. Specifically, all TracFone customers, including those customers located in Massachusetts, have access to directory assistance services provided by TracFone's vendors.

**9. Toll limitation for qualified low-income customers.** There is no need for TracFone to offer a toll limitation feature to qualifying low-income customers. Since TracFone's service is a prepaid service, no customers will be disconnected for failure to pay toll charges or, for that matter, any other charges. TracFone treats long distance minutes as any other

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<sup>9</sup> See Revision of the Commission's Rules to Ensure Compatibility With Enhanced 911 Emergency Calling Systems, Report and Order and Second Further Notice of Proposed Rulemaking, FCC 03-290, 2003 WL 22844386 (released: Dec. 1, 2003) ("E911 Order").

<sup>10</sup> Id. ¶ 91.

minutes and the customers are not charged separately for toll services. Inasmuch as all TracFone services are prepaid there is no danger that low income customers will incur large charges for heavy toll (or other) calling and no risk that they will be disconnected for nonpayment. Since customers pay for the service in advance – they can use only what they already have paid for. Thus, TracFone's prepaid services are especially beneficial to lower income users since the consumers' enjoy the ability to control or limit their charges for toll service (as well as local service) in a manner that customers of traditional post-paid (billed in arrears services) do not.

**D. TracFone Will Advertise the Availability of its Lifeline Services.**

TracFone will advertise the availability of the Lifeline services and the charges therefore using media of general distribution, in accordance with the requirements of Section 54.201(d)(2) of the Commission's Rules (47 C.F.R. § 54.201(d)(2)). TracFone currently advertises the availability of its services, and will do so for the Lifeline service on a regular basis, in newspapers, and magazines, or on radio and television, that constitute media of general distribution in Designated Areas of the Commonwealth of Massachusetts. In addition, TracFone services are advertised through use of displays at the numerous retail outlets where TracFone service is sold.

**E. TracFone Requests Designation Throughout Its Licensed Service Area in Massachusetts**

TracFone is not a rural telephone company as defined in Section 153(37) of the Communications Act (47 U.S.C. § 153(37)). Accordingly, TracFone is required to describe the geographic area(s) within which it requests designation as an ETC. TracFone requests designation as an ETC for its entire service area in Massachusetts. TracFone, through its resale of wireless services provided by its underlying vendors in Massachusetts, provides service in every Zip Code in the Commonwealth of Massachusetts. Accordingly, TracFone seeks ETC

status throughout the entire Commonwealth of Massachusetts.

### **1. Non-Rural Areas**

For non-rural service areas, there are no restrictions on how a state commission defines the “service area” for purposes of designating a competitive ETC. TracFone’s authorized service area covers the following non-rural telephone company service area: Verizon–New England, Inc. The Commission may designate TracFone as an ETC in areas that TracFone serves without redefining the service areas of the non-rural telephone company set forth above.

### **2. Rural Areas**

TracFone’s authorized service area covers the following rural telephone company service areas in their entirety:

Grandby Telephone and Telegraph Co. of MA  
Richmond Telephone Company  
Sentinel Tree Telephone Company, Inc.  
Taconic Telephone Corporation

The Commission may designate TracFone as an ETC in these rural telephone company service areas upon a finding that such designation would serve the public interest.<sup>11</sup>

### **III. Designation of TracFone as an ETC for the Designated Areas In the Commonwealth of Massachusetts Would Serve the Public Interest**

As noted above, TracFone seeks certification as an ETC for the Lifeline program in areas served by rural telephone companies, as well as in areas served by non-rural telephone companies. Consequently, the Communications Act requires that the Commission determine that TracFone’s designation as an ETC would serve the public interest.<sup>12</sup>

Based upon recent Commission-compiled data, the Federal Lifeline program remains

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<sup>11</sup> See 47 C.F.R. § 54.207(c).

<sup>12</sup> 47 U.S.C. § 214(e)(6).

significantly underutilized. According to Commission data, nationally, only 33.7% of eligible households participate in Lifeline.<sup>13</sup> In Massachusetts, the percentage of eligible households participating in Lifeline is 38.8%.<sup>14</sup> TracFone does not know why a program so important to low income consumers is so underutilized. TracFone is prepared to promote the availability of the Lifeline program upon grant of its petition for forbearance and approval of its petition for ETC designation. By doing so it is expected that the level of participation by eligible households in the Lifeline program will increase, and thus, serve the public interest.

In addition, in regard to the public interest served by wireless providers to low-income consumers, a research group recently has stated in its comments to TracFone's Petition for Forbearance:

While cell phones were once viewed as luxury items, they have become increasingly important for consumers in all income brackets. There are certainly unique services that cell-phone providers can offer low-income consumers. Many low-income consumers commute long distances and/or work several jobs, meaning that they can spend many hours away from home each day. A cellular phone offers mobility, security, and convenience that a traditional wire-line can't offer.<sup>15</sup>

Similarly, the Sustainable Markets Foundation has stated in its comments to TracFone's Petition for Forbearance that prepaid wireless service:

has become an alternative to regular in-home telephone service for many low-income consumers, including migrant workers, working, traveling through, or living in rural areas with little access to regular phone service. It has also become an alternative to regular phone service for consumers who may not stay at one residence long enough to justify service connection fees or consumers with poor

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<sup>13</sup> See *In the Matter of Lifeline and Link-Up, Report and Order and Further Notice of Proposed Rulemaking*, FCC 04-87 (released April 29, 2004) at Table 1.A.

<sup>14</sup> *Id.*

<sup>15</sup> Comments of New York Public Interest Research Group to TracFone's Petition for Designation as an Eligible Telecommunications Carrier in the State of New York and Petition for Forbearance, Docket No. 96-45, filed July 26, 2002, at 2.



credit ratings who would otherwise have trouble obtaining phone service.<sup>16</sup>

The above-mentioned data and comments undeniably demonstrate that providing wireless service to low-income consumers who qualify for the Lifeline program will help satisfy the needs of an important segment of our society that is under-served.

In its recent Highland Cellular decision, the Commission identified several factors to be considered in determining whether designation of an additional ETC in a rural area would serve the public interest. These factors require the Commission to weigh whether the benefits of an additional ETC in specific rural areas would outweigh potential harms. The factors to be considered include: 1) the benefits of increased competitive choice; 2) the impact of the designation on the universal service fund; 3) the unique advantages of the applicant company's service offerings; 4) commitments made regarding the quality of services to be provided; and 5) the ETC applicant's ability to satisfy its obligation to serve the designated areas within a reasonable time frame.<sup>17</sup> As described in the following paragraphs, TracFone meets each of those criteria.

#### **1. The Benefits of Competitive Choice**

The benefits to consumers of being able to choose from among a variety of telecommunications service providers have been acknowledged by the Commission for more than three decades.<sup>18</sup> However, the benefits of competitive choice are especially valuable in situations in which wireless providers like TracFone seek to provide service to low-income consumers in rural communities. As the Commission recognized in Highland Cellular, some

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<sup>16</sup> Comments of Sustainable Markets Foundation to TracFone's Petition for Designation as an Eligible Telecommunications Carrier in the State of New York and Petition for Forbearance, Docket No. 96-45, filed July 26, 2004, at 2.

<sup>17</sup> Highland Cellular, ¶ 22.

<sup>18</sup> See, e.g., Specialized Common Carrier Services, 29 FCC2d 870 (1971).

residences located in rural communities do not have access to the public switched network through the incumbent local exchange carrier. Moreover, the availability of a wireless competitive alternative benefits those low-income, rural consumers who often must drive significant distances to work, to schools, to stores, and to other community locations.<sup>19</sup> TracFone's prepaid wireless service alternative will provide low-income consumers with convenient and affordable service, both from their residences and when they are away from their homes.

## **2. Impact on the Universal Service Fund**

Whatever impact classification of TracFone as an ETC will have on the universal service fund will be negligible. As noted by the Commission in Highland Cellular, the total size of the fund as of fourth quarter 2003 was \$857,903.276. As stated earlier, nationally, only 33.7% of eligible households participate in the Lifeline program. TracFone does not anticipate that the amount of universal service funding which it might receive for offering Lifeline services would be more than a *de minimis* portion of the fund size.

## **3. Unique Advantages of TracFone's Service Offerings**

As described elsewhere in this petition, TracFone's entire business model is predicated on providing easy to use, pay-as-you-go, affordable wireless telecommunications service to consumers to whom wireless service is otherwise unavailable or impracticable. TracFone offers consumers an opportunity to acquire wireless service using state-of-the-art handsets and such features as caller ID, voice mail, call forwarding, and long distance calling without toll charges. Because TracFone's service requires no term contracts, no minimum service periods or volume commitments, no credit checks, the service is available to everyone – irrespective of age;

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<sup>19</sup> Highland Cellular, ¶ 23.

irrespective of residency; irrespective of creditworthiness. Moreover, TracFone's prepaid service is unique in that usage information and remaining balance information is stored in the handsets and is thus available to consumers on a "real-time" basis. None of the incumbent providers nor those other non-incumbent ETCs serving the areas covered by TracFone in Massachusetts offer service to consumers under comparable conditions.

#### **4. Service Quality Commitments Made**

As a reseller of other carriers' wireless services, TracFone's service is of the same quality and reliability as that of its underlying vendors. TracFone cannot assure the Commission that it will never experience service disruptions. Occasional dropped calls and inconsistent coverage depending on atmospheric conditions are a fact of life in the wireless industry. TracFone believes that its service is as reliable as that of any other provider serving the Massachusetts market. To demonstrate its commitment to high service quality, TracFone will comply with the Cellular Telecommunications and Internet Association's Consumer Code for Wireless Service. In addition, it is willing to provide report to the Commission information regarding the number of consumer complaints per 1,000 handsets on an annual basis (the commitment made by Highland Cellular).

#### **5. TracFone Will be Able to Serve the Designated Areas Within a Reasonable Time**

TracFone provides service in Massachusetts by reselling service which it obtains from two underlying facilities-based providers. Each of those providers' networks are operational and are largely built out. Thus, TracFone will be able to provide service to all locations served by any of those two underlying carriers immediately upon grant of this application.

*Designation of TracFone as an ETC will also serve the public interest because TracFone will provide all of the supported services required by the Commission, will participate in the*

Lifeline program as required by the Commission's Rules, and will otherwise comply with all FCC Rules governing universal service programs, which are designed to ensure that the public interest standards of the Communications Act are achieved. Allowing TracFone access to universal service support will enable TracFone to continue to enhance and expand its service to better serve low-income consumers in the Commonwealth of Massachusetts. As a national leader in prepaid wireless services, TracFone has done much to advance the availability of wireless service for those portions of the population for whom wireless service is otherwise unavailable or, if available, is too costly and requires usage and volume commitments which are beyond the means of many consumers.

Finally, designation of TracFone as an ETC will serve the public interest by further promoting the extensive role TracFone plays in the provision of communications services to lower income users. TracFone's "pay-as-you-go" wireless plans enable consumers to enjoy the convenience and security of wireless telecommunication without being subject to extensive credit reviews and long-term service commitments which historically have limited the availability of wireless service to many Americans, including many Massachusetts residents. Accordingly, designation of TracFone as an ETC will serve the public interest.

#### **IV. Anti-Drug Abuse Certification**

No party to this Petition is subject to denial of federal benefits pursuant to Section 5301 of the Anti-Drug Abuse Act of 1998, 21 U.S.C. Section 862.<sup>20</sup>

#### **V. High-Cost, Interstate Access, and Interstate Common Line Support Certification**

Under Sections 54.313, 54.314 and 54.904 of the Commission's Rules (47 C.F.R. §§ 54.313, 54.314 & 54.904), as well as 47 C.F.R. § 54.809, carriers wishing to obtain universal

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<sup>20</sup> See Declaration of F.J. Pollak, attached hereto as Exhibit 1.

service support must either be certified by the appropriate state commission or, where the state commission does not exercise jurisdiction, must self-certify with the Commission and the Universal Service Administrative Company (“USAC”) as to their compliance with Section 254(e) of the Communications Act (47 U.S.C. § 254(e)). As explained above, the Massachusetts Department of Telecommunications and Energy does not exercise jurisdiction over CMRS carriers such as TracFone. Therefore, TracFone has submitted its high-cost interstate access and interstate common line support certification letter with the Commission and with USAC. A copy of this certification is attached hereto as Exhibit 3. As explained above, TracFone does not seek access to funds from the federal Universal Service Fund for the purpose of providing service to high cost areas. Nevertheless, TracFone includes the attached certification as part of this ETC petition to demonstrate to the Commission that it is fully compliant with all ETC designation requirements.

## **VI. Conclusion**

Based on the foregoing, TracFone contends that the requirements for eligibility for designation as an eligible telecommunications carrier have been met. Therefore, TracFone requests that the Commission promptly grant this Petition for ETC designation to enable it to offer Lifeline service to eligible low income consumers.

Respectfully submitted,



Mitchell F. Brecher  
Debra McGuire Mercer

GREENBERG TRAURIG, LLP  
800 Connecticut Avenue, N.W.  
Suite 500  
Washington, D.C. 20006  
(202) 331-3100

*Counsel for TracFone Wireless, Inc.*

November 9, 2004

## **EXHIBIT 1**



wireless, inc. 8390 NW 25th Street | Miami, FL 33122

### DECLARATION OF TRACFONE WIRELESS, INC.

F.J. Pollak, after first being sworn on oath, and pursuant to 47 C.F.R. § 1.16, states as follows:

1. I am President and Chief Executive Officer of TracFone Wireless, Inc. My business address is 8930 N.W. 25<sup>th</sup> Street, Miami, Florida 33122-1902

2. In my capacity as President and Chief Executive Officer of TracFone Wireless, Inc., I am an authorized representative of the Company. I have read TracFone's Petition for Designation as an Eligible Telecommunications Carrier in the Commonwealth of Massachusetts ("Petition") and confirm the information contained therein to be true and correct to the best of my present knowledge.

3. To the best of my knowledge, no party to the Petition, nor any of their officers, directors, or persons holding 5% or more of the outstanding stock or shares (voting and/or non-voting) as specified in Section 1.2002(b) of the Commission's rules, are subject to denial of federal benefits, including Commission benefits, pursuant to Section 5301 of the Anti-Drug Abuse Act of 1988, 21 U.S.C. § 862.

I hereby certify under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

Executed on October 19, 2004.

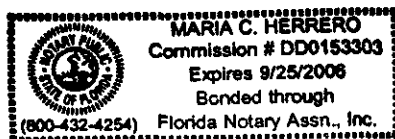
F.J. Pollak

President and Chief Executive Officer

Subscribed and sworn to before me  
This 19 day of October 2004.

*Maria C. Herrero*

Notary Public





## **EXHIBIT 2**